

Chapter 24.1

SUBDIVISION ORDINANCE*

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ORDINANCE

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF LYNCHBURG, 1959, BY ADDING SECTIONS NUMBERED 24.1-1 THROUGH 24.1-50, AND TO REPEAL SECTION 24-4, THE ADDED SECTIONS RELATING GENERALLY TO THE SUBDIVISION OF PROPERTY, RESIDENTIAL, COMMERCIAL AND INDUSTRIAL, INTO LOTS, STREETS, ALLEYS AND OTHER PUBLIC AREAS, TO PROVIDE FOR THE PREPARING AND RECORDING OF PLATS OF SUCH SUBDIVISIONS AND THE CERTIFICATION OF SAME AND PROVIDE FOR THE APPROVAL OF PLATS, AND THE REPEALED SECTION RELATING TO THE SUBDIVISION OF PROPERTY TO BE APPROVED BY COUNCIL.

Whereas, by the authority contained in Chapter 11, Article 7, Sections 15.1-465 through 15.1-485, and other applicable sections of the Code of Virginia (1950), as amended, the City of Lynchburg, Virginia, may adopt regulations to assure the orderly subdivision of land and its development; for the coordination of streets within subdivisions with other existing or planned streets within the general area, as to location, widths, grades and drainage; for adequate provisions for drainage and flood control and other public purposes, and for light and air; for the extent to which and the manner in which streets shall be graded or otherwise improved and water and storm and sanitary sewer and other utilities or facilities installed; for the acceptance of dedication for public use of any right-of-way located within any subdivision; for monuments of specific types to be installed establishing street and property lines; for the recordation of a plat within six (6) months after final approval thereof or such longer period as may be approved by the governing body, after which, such approval shall be withdrawn and the plat marked void and returned to the approving official; for the administration and enforcement of such ordinance and for the imposition of reasonable fees and charges for the review of plats and plans; for the inspection of facilities required by any such ordinance to be installed; and for payment by a subdivider or developer of land of his pro rata share of the cost of providing reasonable and necessary sewerage and drainage facilities, located outside the property limits of the land owned or controlled by him but necessitated or required, at least in part, by the construction or improvement of his subdivision or development; provided, however, that no such payment shall be required until such time as the governing body or a designated department or agency thereof shall have established a general sewer and drainage improvement program for an area having related and common sewer and drainage conditions and within which the land owned or controlled by the subdivider or developer is located.

***Editor's note**—Chapter 24.1 contains the subdivisions ordinance of the city as the same was adopted November 14, 1978.

Charter reference—Planning authority, § 38(33).

Cross references—Building, Ch. 11; building setback lines, § 11-41; erosion and sediment control, Ch. 16.1; fences and walls, Ch. 17; housing, Ch. 22; parks and public places, Ch. 28; planning, Ch. 30; sewers, Ch. 34; streets and sidewalks, Ch. 35; water, Ch. 39; zoning, Ch. 35.1.

State law reference—Subdivisions, Code of Virginia, § 15.1-465 et seq.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG

1. That the Code of the City of Lynchburg, 1959, is hereby amended by adding Sections 24.1-1 through 24.1-50, as follows:

ARTICLE I. EFFECT OF ORDINANCE

Sec. 24.1-1. Sub division regulations.

The following regulations are hereby adopted for the subdivision of land within the corporate limits of the City of Lynchburg and from and after the effective date of this ordinance, every owner or proprietor of any tract of land to which these regulations apply who subdivides such tract as provided in these regulations shall cause a plat of such subdivision developed and prepared in accordance with these regulations, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the circuit court, within deeds conveying such land are required by law to be recorded. A copy of said plat shall also be filed in the office of the city assessor. For any subdivision plat recorded prior to the adoption of this ordinance for which construction contracts for required improvements have not been signed, the subdivider shall be required to submit final plat documentation for approval by the agent before such contracts are signed and sale or development of lots may be undertaken.

ARTICLE II. PURPOSE AND TITLE

Sec. 24.1-2. Title.

This ordinance is known and shall be cited as the "Subdivision Ordinance of the City of Lynchburg."

Sec. 24.1-3. Purpose.

The purpose of this ordinance is to establish certain subdivision standards and procedures for the City of Lynchburg, Virginia, and such of its environs as come under the jurisdiction of the governing body as provided for by the Code of Virginia, as amended.

These are part of a long-range plan to guide and facilitate the orderly beneficial growth of the community, and to promote the public health, safety, convenience, comfort, prosperity and general welfare. More specifically, the purposes of these standards and procedures are to provide a guide for the change that occurs when land and acreage become urban in character as a result of development for residential and non-residential purposes; to provide assurance that the purchasers of lots are buying a commodity that is suitable for development and use; and to make possible the provision of public services in a safe, adequate and efficient manner.

Sec. 24.1-4. Mutual responsibility.

There is a mutual responsibility between the subdivider and the City of Lynchburg to divide the land so as to improve the general use pattern of the land being subdivided.

ARTICLE III. DEFINITIONS

Sec. 24.1-5. Words and terms.

For the purpose of this ordinance, certain words and terms used herein shall be interpreted or defined as follows: Words used in the present tense include the future, words in the singular number include the plural, and the plural the singular, unless the natural construction of the word indicates otherwise; the word "lot" includes the word "parcel"; the word "shall" is mandatory; the word "approve" shall be

considered to be followed by the words “or disapprove”; any reference to this ordinance includes all ordinances amending or supplementing the same; all distances and areas refer to measurement in a horizontal plane.

- (1) Agent: The representative of the City of Lynchburg who has been designated to serve as the agent of the city in administering this ordinance.
- (2) Alley: A permanent service way providing a secondary means of access to abutting properties.
- (3) Block: An area of land containing two (2) or more lots and bounded by streets providing access to such lots.
- (4) Building line: A line set with respect to the frontage of a plot of land which is fixed by statute, ordinance, deed or contract and beyond which the owner of the land may not build.
- (5) Building setback: The minimum distance that a building must be set back from the street line on which the lot abuts.
- (6) Commission: The planning commission of the City of Lynchburg, Virginia.
- (7) Cul-de-sac: A street with only one (1) outlet and having an appropriate turnaround for a safe and convenient reverse traffic movement.
- (8) Dedicate(tion): An appropriation of land to some public use, made by the owner, and accepted for such use by or on behalf of the public.
- (9) Developer: An owner of property being subdivided, whether or not represented by an agent.
- (10) Driveway: The means of access to the building on a lot, connecting the building to the street on which the lot has frontage.
- (11) Easement: A grant by a property owner of the use of land for a specific purpose or purposes.
- (12) Flag lot: A lot which has less than the usual required street frontage and which meets the requirements of Section 24.1-28.1. Flag lots. Lots fronting on a cul-de-sac are not considered flag lots and are regulated by Section 35.1-22. Buildings, uses and lots.
- (13) Governing body: The city council of the City of Lynchburg, Virginia.
- (14) Health official: The health director of the City of Lynchburg, or a sanitarian.
- (15) Jurisdiction: The area or territory subject to the legislative control of the governing body.
- (16) Lot: A tract or parcel of land intended for transfer of ownership, use or improvement.
- (17) Lot, double frontage: A lot, the opposite ends of which abut on streets.
- (18) Lot of record: A lot, the plat of which has been recorded in the office of the clerk of the circuit court.
- (19) Lynchburg general plan: The comprehensive plan of the City of Lynchburg as adopted and amended by the city council.
- (20) Monuments: Visible marks or indications left on natural or other objects indicating the lines and boundaries of a survey.
- (21) Plat: Includes the terms: map, plan, plot, replat or replot; a map or plan of a tract or parcel of land which is to be, or which has been, subdivided. When used as a verb “plat” is synonymous with “subdivide.”
- (22) Property: Any tract, lot, parcel or several of the same collected together for the purpose of subdividing.

(23) Public water or sewer: A water or sewer system designed to accommodate more than two (2) family residences, whether owned by the City of Lynchburg or by a private individual or concern. This definition shall not apply to nonresidential subdivisions.

(24) Sight distance (across intersections): A straight line with unobstructed view measured in either direction across the corner between points, each fifty (50) feet back from the theoretical intersection of the edges of the pavement prolonged; both points three (3) feet above the grade of the pavement edge.

(25) Sight distance (along road): A straight line with unobstructed view measured between a point three (3) feet above the finished grade of a road, at the center line of each traffic lane, and a point at a given minimum distance away from the first point, located six (6) inches above finished grade at a center line of the same traffic lane.

(26) Street, private: An improved access road which has been approved by the City of Lynchburg as part of a planned unit development, cluster commercial development, or townhouse lots for sale complex, where an owners' association owns and maintains the access road. Also an improved access road which by a plat, deed or agreement recorded on or before September 12, 1989, has established joint usage rights and maintenance responsibilities among the owners of properties fronting on said improved access road.

(27) Street, public: An improved, dedicated right-of-way, or an improved road which has become public by right of use, for access use by the public, usually having a minimum pavement width of thirty (30) feet and a minimum right-of-way width of fifty (50) feet unless the regulations of the City of Lynchburg require otherwise.

(28) Street, width: The total width of the strip of land dedicated or reserved for public travel, including roadway, curbs, gutters, sidewalks and planting strips.

(29) Subdivision: Division of any tract, parcel or lot of land into two (2) or more parts at one time or any extended period of time. For the purposes of this ordinance, the alternation or reconfiguration of existing lot lines is also considered to be a subdivision. However, the following exceptions apply:

a. The term "subdivision" shall not include the division of land into ten (10) acres or more for agricultural purposes, provided no new streets are required.

b. The agent may, however, permit the separation of one (1) parcel from a tract of land without complying with all requirements of this ordinance if it is (1) not in conflict with the general meaning and purpose of the ordinance, and (2) no new streets are required to serve the parcel.

c. The word "subdivide" and any derivative thereof shall have reference to the term "subdivision" as defined in Section 24.1-5(29).

(30) Subdivider: Any one (1) or more individual, corporation or registered partnership, owning any tract, lot or parcel of land to be subdivided, or a group of two (2) or more persons owning any tract, lot or parcel of land to be subdivided, who have given their power of attorney to one of their group or to another individual to act on their behalf in planning, negotiating for, in representing or executing the legal requirements of the subdivision.

(31) Technical review committee (TRC): A committee for review and recommendation to the city manager, planning commission, and city council, consisting of city planner, city engineer, city traffic engineer, superintendent of inspections and city fire marshal or their designees. (Ord. No. O-78-323, 11-14-78; Ord. No. O-89-248, § 1, 9-12-89; Ord. No. O-00-190, 9-12-00)

ARTICLE IV. ADMINISTRATION**Sec. 24.1-6. Agent, or his designee.**

This ordinance will be administered by the city planner, or his designee, in collaboration with the technical review committee who shall jointly determine compliance with the regulations contained herein. The city planner shall administer with the regulations contained herein. The city planner shall administer all subdivisions lots, provided no new streets are required to serve the parcel, in which case final approval may only be given by the city council after review by the planning commission. Where a subdivision has been approved administratively by the city planner, no additional subdivision of these lots or of the residue tract will be approved within a period of two (2) years from the date of approval, unless the land is industrially-zoned or the two-year time limit is waived by the Planning Commission. In so acting, the city planner shall be considered the agent of the governing body, and approval or disapproval by the agent shall constitute approval or disapproval as though it were given by the governing body. An appeal of right from any decision of the agent shall lie to the commission, thence to city council, thence to the circuit court of the City of Lynchburg. (Ord. No. O-78-323, 11-14-78; Ord. No. O-89-248, § 1, 9-12-89; Ord. No. O-90-169, 6-12-90; Ord. No. O-00-190, 9-12-00)

Sec. 24.1-7. Duties.

The agent shall perform his duties regarding subdivision and subdividing in accordance with this ordinance and Chapter 11, Article 7, Sections 15.1-465 through 15.1-485, and other applicable sections of the Code of Virginia (1950), as amended. (Ord. No. O-78-323, 11-14-78)

Sec. 24.1-8. To consult.

In the performance of his duties the agent may call for opinions or decisions, either verbal or written, from other departments in considering details of any submitted plat. This authority of the agent shall have particular reference to the technical review committee, and the health official.

ARTICLE V. PROCEDURE FOR PREPARING AND RECORDING PLATS**Sec. 24.1-9. Platting and recording required.**

Any developer of any tract of land situated within the City of Lynchburg who subdivides the same as defined herein shall cause a plat of such subdivision, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the circuit court of the City of Lynchburg. No such plat of subdivision shall be recorded unless and until it shall have been submitted, approved and certified by the agent in accordance with the regulations set forth in this ordinance. No lot shall be sold in the subdivision before the plat shall have been recorded. Before any permits are issued to begin construction, the subdivider shall submit a notarized letter, or a copy of the plat with the clerk of courts' seal and signature, to the superintendent of inspections, the city planner, and the city engineer certifying that the plat has been recorded with the clerk of the circuit court. (Ord. No. O-89-248, § 1, 9-12-89)

Sec. 24.1-10. Draw and certify.

Every such plat shall be prepared by a surveyor, or other persons certified by the State of Virginia, who shall endorse upon each plat a certificate signed by him, setting forth: (1) the source of the title of the land subdivided; and (2) the place of record of the last instrument in the chain of title. When the plat is of land acquired from more than one source of title, the outlines of the several tracts shall be indicated upon the plat, within an insert block, or by means of a dotted boundary line. When any part of the land proposed for subdivision lies in a drainage district, such fact shall be set forth on the plat of the proposed subdivision. (Ord. No. O-80-007, § 1, 1-8-80)

Sec. 24.1-11. Owner's statement.

Every such plat, or the deed of dedication to which the plat is attached, shall contain in addition to the surveyor's certificate a statement to the effect that "the above and foregoing" subdivision of (here insert correct description of the land subdivided) as appears in this plat is with the free consent and in accordance with the desire of the undersigned owners, proprietors and trustees, if any," which shall be signed by the owners, proprietors and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgements of deeds, and when thus executed and approved, as herein specified, shall be filed and recorded in the office of the clerk of the circuit court of the City of Lynchburg, Virginia, and indexed under the names of the landowners signing such statement and under the name of the subdivision.

Sec. 24.1- 12. No land ex empt.

No tract of land shall be subdivided that is located within the City of Lynchburg, Virginia, unless it conforms with the provisions of this ordinance.

Sec. 24.1- 13. Private contracts.

This ordinance bears no relation to any private easement, covenant, agreement or restriction, nor is the responsibility of enforcing such private easement, covenant, agreement or restriction implied herein by any public official. When this ordinance calls for more restrictive standards than are required by private contract, the provisions of this ordinance shall control.

Sec. 24.1- 14. Necessary changes.

No change, erasure or revision shall be made on any preliminary or final plat, nor any accompanying data sheets after approval of the agent has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the agent.

Sec. 24.1- 15. Fees.

There shall be a charge for the examination and approval or disapproval of every plat reviewed by the agent. At the time of filing the plat, the subdivider shall deposit with the agent a check payable to the City of Lynchburg in the amount set forth in the fee schedule adopted by city council. (Ord. No. O-78-323, 11-14-78; Ord. No. O-88-097, § 1, 5-10-88, eff. 7-1-88; Ord. No. O-95-206, 7-11-95, eff. 9-1-95; Ord. No. O-95-253, 9-12-95; Ord. No. O-98-124, 6-9-98)

ARTICLE VI. GENERAL REGULATIONS**Sec. 24.1- 16. Flooding.**

Land subject to flooding and land deemed to be topographically unsuitable shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life, or property, or aggravate erosion or flood hazard. Such land within the subdivision shall be set aside on the plat for such uses as shall not be endangered by periodic or occasional flooding or shall not produce conditions contrary to public welfare.

Sec. 24.1- 16.1. Possible flood plain.

To ensure that owners will have sufficient land upon which to build a structure which is flood free, compliance with floodway widths and the one hundred (100) year flood elevations contained within the city's flood insurance study (FIS) is mandatory. The agent may require the subdivider to provide elevation and flood profiles based on a one hundred (100) year flood plain (which means a flood of a magnitude likely

to happen, on the average, only once every century) sufficient to demonstrate the land to be completely free of the danger of flood water at an elevation of at least three (3) feet below any probable floor level of any building for human occupancy.

Sec. 24.1-17. Building site and setback.

The site and setback of buildings within a subdivision shall comply with the zoning ordinance.

Sec. 24.1- 17.1. Build ing line.

The building line shall comply with subdivision plat restrictions. This line shall not be closer to the street line than the building setback (Section 24.1-17).

Sec. 24.1- 18. Lot sizes.

Lot sizes shall be in accordance with minimum requirements of the zoning ordinance, or the following subsections, whichever is more restrictive shall apply:

(1) Lot size, public water and sewer: Lots served by both public water and sewerage systems shall be in accordance with the zoning ordinance.

(2) The following statement shall be shown on the plat when sewer and water lines are available, but not in place:

“The owner of this subdivision agrees to construct a public water and sanitary sewerage system within the boundaries of the subdivision to meet the policies, regulations, and standards of the city.”

Sec. 24.1- 19. Lot size, wa ter or sewer.

(a) Residential subdivisions of five (5) lots or less may be served by private wells or septic tanks provided, that no new roads are required and that lots served by only one of water or sewerage system shall be twenty thousand (20,000) square feet or more in area and the following statement shall be shown on the plat:

“The owner of this subdivision agrees to construct a water or a sanitary sewerage system to meet the policies, regulations, and standards of the city and/or Lynchburg health department. Before the construction of any dwelling can begin the Lynchburg health department shall be consulted to ensure the proper location of the water or the sanitary sewerage system in relation to the location of the dwellings.”

(b) Non-residential lots served by only one of public water or sewerage system shall meet the requirements of the Lynchburg health department and the city, except where exempted by city ordinance or current city policy.

Sec. 24.1- 20. Lot size, nei ther wa ter nor sewer avail able.

(a) Residential subdivisions of five (5) lots or less may be served by private wells and septic tanks provided no new roads are required and lots served by neither water nor sewerage system shall be twenty-five thousand (25,000) square feet or more in area and the following statement shall be shown on the plat:

“The owner of this subdivision does not agree to construct either a water or a sanitary sewerage system. Before the construction of any dwelling can begin the city and the Lynchburg health department shall be consulted to ensure the proper location of the water and sewer systems in relation to the location of the proposed dwellings.”

(b) Nonresidential lots served by neither water nor sewerage system shall meet the requirements of the Lynchburg health department and the city, except where exempted by the city ordinance or current city policy.

Sec. 24.1-21. Septic tanks.

The agent shall not approve any subdivision where sanitary sewers are not provided unless the subdivision is of five (5) lots or less and the agent receives in writing from the health official, a statement to the effect that the area contained in the subdivision is satisfactory for the installation of septic tanks, and that they will not, so far as can be determined, create hazards to public health. Final approval as to site suitability will be made at the time of application for a building permit.

(a) Greater lot areas may be required or certain lots may be disapproved where individual septic tanks or individual wells are to be used, if the health official determines that there are factors or drainage, soil condition, or other conditions to cause potential health problems. Drainfield location shall be approved by the Lynchburg health department.

(b) Public water and sewer required: The agent shall not approve any subdivision of more than five (5) lots unless the subdivision is served by the city ("public") water and sewer system.

Sec. 24.1- 21.1. Development of large lots generally.

Notwithstanding any other provisions of this article, subdivisions without public sewer service may be approved by the city council when the following conditions are met:

- (a) Each proposed lot must have at least one (1) acre in area.
- (b) The large lot development must have a minimum size of six (6) lots.
- (c) City sewer service is not reasonably available and economically feasible to extend, as defined in Section 24.1-31(c) of the subdivision ordinance, and sewer service extension is not planned in the city's current capital improvements program.
- (d) If the capital improvements program is revised to include sewer service extension to the area within twelve (12) months of the date of approval of the subdivision plat, or if funds are appropriated for sewer extension within the said twelve (12) months in connection with another development or plan, and a requested large lot development has not yet had an approved plat recorded or construction begun according to approved plans, then any large lot approval that has been given by the city council is hereby rescinded and the proposed development must meet all appropriate land development and sewer service regulations.
- (e) The subdivision plat must include all usual sewer service easements requested by the city, in order that the development can be readily connected to city sewer service in the future.
- (f) The Commonwealth of Virginia department of health must approve each of the requested large lots as having sufficient area to accommodate two (2) septic disposal fields prior to subdivision approval by the city.
- (g) All other city land development regulations must be met.
- (h) The city council may disapprove any large lot development if it believes the development will be detrimental to the orderly development of the area or the efficient provision of public services. (Ord. No. O-85-141, § 1, 6-11-85; Ord. No. O-89-248, § 1, 9-12-89)

Sec. 24.1- 22. Flood control and drainage.

The subdivider may be required to provide that information necessary to determine what improvements are required to properly develop the subject property, including contour intervals, drainage plans and flood control devices. The plans for such improvements shall include a statement from an engineer, or any other person certified by the State of Virginia, that such improvements when properly installed will be adequate for proper development. In subdivisions where the streets are dedicated to public use the city council shall either approve or disapprove the plans.

Sec. 24.1-23. Easements.

Easements of seven and one-half (7 1/2) feet minimum in width on each side of the center line of the easement shall be provided for water, sewer, power and telephone lines and other utilities, as well as cable television service lines, in the subdivision. Such easements shall be laid out so as to ensure continuity for utilities from block to block and to adjacent property. Such utility easement shall be kept free of permanent structures and whenever possible shall be located adjacent to property lines. Nothing in this section is intended to prohibit the placement of public utilities within dedicated rights-of-way. The agent may require that easements for drainage through adjoining property be provided by the subdivider. (12-12-78)

Sec. 24.1- 24. Fire protection.

The installation of adequate fire hydrants and mains in a subdivision may be required by the city at locations approved by the City of Lynchburg, provided necessary public water is available.

Sec. 24.1- 25. Bond.

Dedication for public use of any right-of-way located within any subdivision which has constructed therein, or proposed to be constructed therein, any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, water line or part of a public system, or other improvement, or phase thereof as approved by the agent on the final plat, financed or to be financed in whole or in part by private funds, shall be accepted only if the owner or the subdivider: (1) certifies to the city that the construction costs have been paid to the person constructing such facilities, or (2) furnishes to the city a certified check or cash escrow in the amount of the estimated costs of construction or a personal, corporate or property bond, or other financial arrangement satisfactory to the city, in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned, or furnishes to the governing body a bank or savings and loan association's letter of credit on certain designated funds satisfactory to the governing body as to the bank or savings and loan association, the amount and the form. The bond, in an amount calculated by the city, shall be based upon a two-year projection of cost from the date of starting construction of said improvements to ensure that required improvements are completed in a workmanlike manner in accordance with specifications and construction schedules established by the city. The improvements shall be completed within two (2) years from date of starting construction and the bond shall guarantee such performance. The bond shall not be released until the construction has been inspected and approved by the city.

(1) Within fifteen (15) days, after notification by the owner that the construction is complete, the city shall inspect the construction and notify the owner in writing of those items of construction which are not satisfactory, or that the construction is approved. The city may release fifty (50) percent of the bond upon notification by the owner that fifty (50) percent of the construction is complete. The owner shall certify that all construction costs have been paid to persons constructing the facilities and the city shall inspect the facilities, to ensure that fifty (50) percent of the work is complete, within fifteen (15) days of notification by the owner.

(2) The developer and the development principals thereof shall provide the city with a guarantee or warranty against defects for a period of one (1) year following acceptance of the subdivision public improvements by the city. (Ord. No. O-80-007, § 1, 1-8-80)

Sec. 24.1- 26. Improvements.

Minimum improvements and construction standards required of all subdivisions are set forth in these regulations and in the applicable design standards and specifications of the public works department of the City of Lynchburg for construction. Prior to beginning any subdivision construction improvements, the developer shall have a registered professional civil engineer prepare for the city's approval, a complete set of engineering plans and specifications. The city shall approve, or notify the subdivider of those plans and

specifications which are not satisfactory, in writing within fifteen (15) days of official submittal of such plans and specifications and provided the final plat has been approved by the agent.

Sec. 24.1- 27. City obligation.

Nothing herein shall be construed as creating an obligation upon the city to pay for grading or paving, or for sidewalks, sewers, curb and gutter improvements or construction or any other costs in connection therewith, other than that which has been specified for certain required improvements.

Sec. 24.1- 28. Lots.

Lots platted shall be in conformance with the following:

(a) Shape: The lot arrangement, design and shape shall be such that lots will provide satisfactory and desirable sites for buildings, and be properly related to topography, and conform to requirements of this ordinance. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage of area which would be unusable for normal purposes.

(b) Location:

(1) Each lot shall have frontage on a public street or an existing private street, as defined in Section 24.1-5. Words and terms, reflected on the subdivision plat, or on a street which has become public by right of use, except lots in planned unit developments, cluster commercial developments, and townhouse lots for sale complexes.

(2) Lots in planned unit developments, cluster commercial developments, and townhouse lots for sale complexes may front on private common drives and/or easements within the development which have access to an improved public street. Responsibility for maintenance of said private streets shall be with the association charged with management and ownership of common open space, property and facilities and shall be so stated on the plat.

(3) Each lot shall be located and designed such that a usable driveway can be built to access the lot directly from the street on which it has the required street frontage, except for lots in approved planned unit developments, cluster commercial developments, and townhouse lots for sale complexes.

(c) Corner lots: Corner lots shall have extra width sufficient for maintenance of required building lines on both streets as required by the zoning or subdivision ordinance, whichever is more restrictive.

(d) Sight distance (across intersections): Clear sight triangles of fifty (50) feet measured along edge of pavement lines from their points of junction shall be provided at all intersections, and no building, structure, grade or planting higher than three (3) feet above the center line of the street shall be permitted within such sight triangle.

(e) Side lines: Side lines of lots shall be approximately at right angles, or radial to the street line and be marked plainly before inspection by the city.

(f) Remnants: All remnants of lots below minimum size, as required in the zoning ordinance, left over after subdividing of a tract must be added to adjacent lots.

(g) Separate ownership: Where the land covered by a subdivision includes two (2) or more parcels in separate ownership, and lot arrangement is such that a property ownership line divides one (1) or more lots, a signed statement with free consent by all owners, proprietors and trustees shall accompany the final plat and lot sizes and arrangement shall meet the requirements of this ordinance. Said statement is to be deposited with the clerk of council and held with the final plat until the subdivider is ready to record same, and they both shall then be recorded together.

(h) House numbers and street names: House numbering and street naming shall be in accordance with the Lynchburg street naming/house numbering ordinance.

(i) Standards for cluster housing developments: All units for sale in cluster housing developments must meet minimum standards specified in Section 35.1-56 of the zoning ordinance.

(j) County boundary lines: No proposed lot shall be split by a county boundary line where it is practical to create the lot otherwise. In no case will a permit be issued to build a structure which would be split by a county boundary line. (Ord. No. O-79-330, § 1, 11-13-79; Ord. No. O-89-248, § 1, 9-12-89)

Sec. 24.1- 28.1. Flag Lots.

The creation of flag lots will only be considered in those instances where severe topographic constraints or unusual existing lot lines make this type of lot arrangement the only feasible way to develop the tract. In such cases the proposed subdivision may be approved by the city when the following conditions are met:

(a) Each flag lot shall have a minimum of fifty (50) feet of frontage on a street, public or private as defined in Section 24.1-5. Words and terms, except for a lot on a cul-de-sac which shall have a minimum street frontage of thirty (30) feet.

(b) The required minimum lot area shall meet the zoning ordinance requirement of the district in which it is located and shall not include the area of the long narrow "flagpole" portion.

(c) Not more than two (2) adjacent flag lots shall be created.

(d) The development of one flag lot behind another flag lot shall be prohibited.

(e) A flag lot shall not be further subdivided until a public street to serve the proposed lot(s) is dedicated and constructed with a minimum right-of-way of fifty (50) feet, or unless a planned unit development, cluster commercial development, or townhouse lots for sale complex is approved for the property, and a note to this effect shall be placed on each subdivision plat which contains a flag lot.

(f) A note shall be placed on the final subdivision plat stating that public services such as refuse collection, snow removal, and street maintenance will only be provided to the point where the flag lot meets the public street right-of-way.

(g) Flag lots with flagpole access strips greater than two hundred (200) feet in length shall provide, at the developer's expense, a driveway which is capable of supporting emergency vehicles and which is at least ten (10) feet in width for the front half closest to the street and at least twenty (20) feet in width for the rear half to allow for the pass-by of vehicles.

(h) The maximum length for the flagpole access strip shall be seven hundred (700) feet in order to provide adequate fire protection.

(i) The house on a flag lot must have a setback of at least fifty (50) feet from all property lines.

(j) A driveway on a residential flag lot shall be located a minimum of five (5) feet from all lot lines, unless approval has been obtained from a shared driveway with one (1) of the adjacent lots. (Ord. No. O-89-248, § 2, 9-12-89; Ord. No. O-00-190, 9-12-00)

Sec. 24.1- 29. Blocks.

(a) Residential: Residential blocks shall be in conformance with the following:

(1) Length: The maximum length of blocks generally shall be twelve hundred (1,200) feet and the minimum length of blocks upon which lots have frontage shall be five hundred (500) feet unless topographic conditions prohibit the same.

(2) Width: Blocks shall be wide enough to allow two (2) tiers of lots of minimum depth, unless prevented by topographical conditions or size of the property. Where the parcel fronts on a major thoroughfare, the city may approve a single tier of lots of minimum depth.

(3) Orientation: Where a subdivision adjoins a major thoroughfare, the city may require that the lesser dimension of the block shall front or back upon such major thoroughfare to avoid unnecessary ingress or egress.

(b) Nonresidential: Blocks intended for nonresidential use shall be designed specifically for such purposes with adequate space set aside for off-street parking and delivery facilities in accordance with the zoning ordinance.

Sec. 24.1- 30. Streets.

(a) (1) Residential: In residential subdivisions where the streets are dedicated to public use, all street and drainage improvements, excluding curbs and gutters, shall be installed by the subdivider at his cost. The subdivider shall clear and grade every street to the full width of the right-of-way with provisions for mowable three (3) to one (1) or flatter slopes on private property, except where topography prohibits. Specifications and requirements shall be in accordance with the standards established by the city.

(2) Nonresidential: In nonresidential subdivisions where the streets are dedicated to public use, the cost and installation of all streets and drainage improvements shall be in accordance with current city policy, as established by city council.

(b) Alignment and layout: The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. The subdivider shall only be required to dedicate an unimproved right-of-way to give convenient access, acceptable to the city, to owners of adjoining property, except where the subdivider's lots front on such right-of-way, the right-of-way shall be improved and extended to the property line of the adjoining property owners and where topographical features are prohibitive, no dedication for access shall be required. Whenever possible, streets should intersect at right angles. In all hillside areas, streets running with contours shall be required to intersect at angles of not less than sixty (60) degrees, unless approved by the city.

(c) Service drives: Whenever a proposed subdivision contains or is adjacent to a limited access highway or expressway, where adequate access is not provided, provision shall be made for a service drive or marginal street approximately parallel to such right-of-way at a distance suitable for an appropriate use of the land between such highway or expressway and the proposed subdivision. Such distance shall be determined with due consideration of the minimum distance required for ingress and egress to the limited access highway or expressway. The right-of-way of any major highway or street projected across any railroad, limited access highway or expressway shall be of adequate width to provide for the cuts or fills required for any future separation of grades.

(d) Approach angle: Streets shall approach the major or collector streets at an angle of not less than eighty (80) degrees, unless the city shall approve a lesser angle of approach for reasons of contour, terrain or matching of existing patterns.

(e) Minimum widths: The minimum width of proposed streets, measured from lot line to lot line, shall be in accordance with regulations established by the City of Lynchburg. However, in no case shall a street be less than fifty (50) feet in width. Alleys, if permitted, shall be not less than twenty (20) feet, nor more than twenty-eight (28) feet in width. If an existing street is to be utilized and such street is not fifty (50) feet in width and the subdivider owns property on both sides of the street, then provisions shall be made on the plat to widen such street to fifty (50) feet or the standard width of that street, whichever is greater. Should the subdivision abut on only one (1) side of an existing street, the subdivider shall dedicate enough land so that one-half (1/2) of the width of such street, as measured from the centerline to the subdivision property line, shall be twenty-five (25) feet or one-half (1/2) the standard width of such street, whichever is greater.

(f) Grading and paving widths: Grading and paving of all streets dedicated to public use shall be in accordance with regulations established by the City of Lynchburg.

(g) Grades: The grades of streets shall be in accordance with specifications established by the city, and such grades as submitted on subdivision plats shall be approved by the city prior to final action by the agent. Wherever feasible, street grades should not exceed ten (10) percent and the maximum allowable grade shall be fifteen (15) percent, unless otherwise approved by the city.

(h) Cul-de-sacs: Minor terminal streets (cul-de-sacs), designed to have one end permanently closed, shall be not longer than twelve hundred (1,200) feet, to the beginning of the turnaround unless approved by the city. Each cul-de-sac must be terminated by a turnaround of one hundred (100) feet in right-of-way diameter. This requirement does not apply to nonresidential subdivisions as these streets will be approved by the city.

(i) Curbs and gutters: Curbs and gutters are required and the cost of said curbs and gutters shall be borne 50 percent by the City and 50 percent by the developer.

(j) Sidewalks: Sidewalks shall be provided by the subdivider where need is demonstrated by the agent with consideration to each subject location with respect to: (1) pedestrian safety, speed limit, street width and street alignment; (2) vicinity of schools, parks, playgrounds, and/or commercial development; (3) street traffic with 6,000 minimum vehicles per day; and

(4) pedestrian traffic with minimum of 75 people per day. Where need for sidewalks is determined by the agent, cost shall be borne 50 percent by the city and 50 percent by the subdivided.

(k) Alleys: Deadend alleys, if unavoidable, shall be provided with adequate turnaround facilities as determined by the city.

(l) Identification signs: Street name signs shall be installed by the city at cost to the subdivider.

(m) Street lighting: Where the subdivider desires street lighting, no installation cost shall be borne by the City. Where underground utilities are installed, the subdivider shall install conduit and markers for mounting bases to permit future installation of street lighting. (Ord. No. O-98-013, 2-10-98)

Sec. 24.1- 31. Public water supply and sanitary sewer system required.

Subdivisions of more than five (5) lots shall be served by the city ("public") water and sewer systems.

(a) Sewer and/or water available: Where a public water supply and/or a public sanitary sewer system are (reasonably accessible as defined in Section 24.1-31(c)) the said water supply and/or sanitary sewer system shall be designed and extended to adequately serve all lots within the subdivision, according to the design standards issued by the public works department. All plans are to be approved by the city.

The cost of installing the sanitary sewer and water system including all appurtenances, except connections and meters, within the subdivision boundaries shall be paid one hundred (100) per cent by the subdivider for the size mains needed to serve the subdivision. The minimum size main shall be as determined by the city. If larger mains are required by the city to serve other areas, then the difference in cost, based on the city's annual bid prices, shall be paid by the city. The city will extend and pay one hundred (100) percent of the cost to provide water and/or sewer lines to the subdivision boundary according to Section 24.1-31(c).

Service connections for both water and/or sanitary sewer shall be constructed to each lot within the subdivision. The cost of these connections will be paid one hundred (100) percent by the city based on the city's annual bid prices. The subdivision plat will contain a notation to the effect that appropriate sewer/water connection and availability fees will be charged by the city at the time of connection to the system.

(b) Sewer and/or water not available: Where a public water supply and/or a public sanitary sewer system are not reasonably accessible as defined in Section 24.1-31(c). the extension of these systems by the subdivider will not be required; however, where the subdivider desires the extension of such systems which

exceeds the ratio stated in Section 24.1-31(c) and agrees to pay the additional cost of the extension to the subdivision boundary, then the city shall extend the lines in accordance with Section 24.1-31(a).

(c) Water/sewer lines availability defined: Reasonably available water and/or sewer lines are defined as those lines which are economically feasible to extend from water and sewer lines mandated by the 1976 annexation decree and/or other lines previously constructed.

To be economically feasible in a residential subdivision, there must be at least one (1) lot for each one hundred (100) feet of utility line construction. The following are examples of feasibility ratios:

Feet of water/sewer line construction	Required number of lots
5,000	50
3,000	30
1,000	10
500	5

For extensions to multi-family subdivisions the feasibility ratio would require two (2) dwelling units per one hundred (100) feet of extension. Thus:

Feet of water/sewer line construction	Required number of dwelling units
5,000	100
3,000	60
1,000	20
500	10

(d) Lots in cluster developments including townhouses for sale and condominiums: Public water and sewer systems shall serve all cluster developments including townhouses for sale and condominiums. The public system shall be brought to an appropriate location(s) on the property line of the development adjacent to a public right-of-way or through a public easement. From that appropriate location(s), the cluster development shall provide private system connecting each unit to the public system. Said private system and payment for service shall become the responsibility of the association charged with management and ownership of common open space, property, and facilities and shall be so stated on the plat. (Ord. No. O-79-330, § 1, 11-13-79)

Sec. 24.1- 32. Storm drain age.

A storm drainage system shall be required to adequately provide for drainage of the subdivision. The subdivider shall pay the cost of this system. The subdivider may be required to pay his pro rata share of sewerage and drainage facilities outside his property limits which are necessitated by the construction or improvement of his subdivision or development.

Sec. 24.1- 33. Monuments.

(a) Visible for inspection: Upon completion of subdivision streets, sewers and other improvements, the subdivider shall make certain that all monuments required by the city are clearly visible for inspection and

use. Such monuments shall be inspected and approved by the city before any improvements are accepted by the governing body.

(b) Location—concrete, stone: Two (2) permanent reinforced monuments as prescribed by the city shall be placed on the longest street tangent intervisible. Such permanent monuments shall be stone or reinforced concrete at least twenty-four (24) inches long and six (6) inches square and shall be set to approved finished grades as practicable.

(c) Location—iron: All other lot corners shall be marked with pipe or solid iron not less than one-half (1/2) inch in diameter and fifteen (15) inches long and driven so as to be flush with the finished grade. When rock is encountered, surveyor shall determine a suitable method for providing a permanent marker.

Sec. 24.1- 34. Res er va tion of land for pub li c pur poses.

The city may require subdividers of residential subdivisions to set aside land for parks, playgrounds, schools, libraries, municipal buildings and similar public uses, subject to the following regulations:

(a) Subdividers shall not be required to reserve land for public purposes other than streets and drainage, except on a reimbursement basis. The subdivider shall be reimbursed by the jurisdiction or agency requiring the land. The city shall be required to obtain an option upon the property involved for a negotiated period following the recording of the plat for such purchase. If the land is not purchased within the said negotiated period by the city and the subdivider, it may be sold as lots for the same purpose for which the subdivision was platted. To facilitate such possible eventual sale of reserved land as separate lots, the subdivider shall show on his final plat, by dotted lines and dotted numbers, the sizes and dimensions of lots to be created within the boundaries of any such reserved land, and may sell such lots, after the expiration date of the reservation, by lot number, without filing an amended plat.

(b) The city shall make certain that lands so reserved are divisible in the same manner as the remainder of the subdivision so that the subdivider will not be required to reserve an unusable portion of his subdivision.

(c) Nothing herein shall be construed to mean that land may be set aside for commercial purposes in a residential district, without the land so required for commercial use being zoned appropriately in accordance with the zoning ordinance. (Ord. No. O-78-323, 11-14-78)

Sec. 24.1- 34.1. Va ca tion of bound ary lines.

The agent may approve the vacation, relocation, or alteration of boundary lines of any lot or parcel of land shown on a valid and properly recorded plat of a subdivision or re-subdivision approved as provided for in this Subdivision Ordinance and executed by the owner or owners of such land, as provided in Section 24.1-42. Such approval may be given provided that the vacation, relocation, or alteration of a lot line does not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas; and, provided further, that no easements or utility rights-of-way shall be relocated or altered without the express consent of all persons holding an interest therein. (Ord. No. O-90-283, 9-11-90)

ARTICLE VII. APPROVAL OF PLATS

Sec. 24.1- 35. Ap pro val re quired be fore con struc tion and sale.

Whenever any subdivision of land is proposed, and before any permit for the erection of a structure shall be granted, the subdivider shall comply with the following requirements regarding approval of plats. (Ord. No. O-78-323, 11-14-78)

Sec. 24.1-36. Preliminary sketch (not required).

The subdivider may, if he so chooses, submit to the planning division a preliminary sketch of the proposed subdivision prior to his preparing an engineering preliminary and/or final plat. Submission of the preliminary plat shall not constitute the official filing of a proposed subdivision. The purpose of such preliminary sketch is to permit the planning division to advise the subdivider whether his plans, in general, are in accordance with the requirements of this ordinance. The planning division, upon submission of any preliminary sketch, shall study it, and advise the subdivider within fifteen (15) days wherein it appears that changes would be necessary. The planning division may mark the preliminary sketch indicating necessary changes and any such marked sketch should be returned to the planning division with the preliminary plat. The preliminary sketch shall be as follows:

The preliminary sketch may be drawn on white paper, or on a print of a topographic map of the property. It shall be drawn to scale. It shall show the name, location and dimensions of all streets entering the property, adjacent to the property or terminating at the boundary of the property to be subdivided. It shall show the location of all proposed streets, lots, parks, playgrounds and other proposed uses of the land to be subdivided and shall include the approximate dimensions. (Ord. No. O-78-323, 11-14-78)

Sec. 24.1-37. Preliminary plat.

The subdivider shall present to the planning division eighteen (18) copies of a preliminary layout at a scale of not less than one hundred (100) feet to the inch and on sheets having a maximum size of seventeen (17) inches by twenty-two (22) inches as a preliminary plat and the preliminary plat shall be accompanied by plan and profile sheets at a scale of fifty (50) feet to the inch horizontal and ten (10) feet to the inch vertical.

The preliminary plat shall include the following information:

(a) Name of subdivision, owner, subdivider, surveyor or engineer, date of drawing, number of sheets, true and/or magnetic north point and scale.

(b) Location of proposed subdivision by an insert map at a scale of not less than two (2) inches equal one (1) mile showing adjoining roads, their name and number, counties, subdivisions and other landmarks.

(c) The boundary survey or existing survey of record provided such survey shows a closure with an accuracy of not less than one (1) in five thousand (5,000), total acreage, acreage of subdivided area, number and approximate area and frontage of all building lots, existing buildings within the boundaries of the tract, names of owners and their property lines within the boundaries of the tract, delineation of flood plain districts, and names of owners and their property lines adjoining such boundaries.

(d) All existing platted streets and all proposed streets, their names and widths; existing and proposed utility or other easements, public areas and parking spaces, culverts, drains and water courses, their names and other pertinent data.

(e) All parcels of land to be dedicated for public use and the conditions of such dedication.

(f) Topography at intervals of five (5) feet.

(g) Elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the center line of streets together with proposed grade lines connecting therewith, or as necessary for the city to reasonably interpret the intention of the subdivider. Major grade changes shall be indexed to profile sheets.

(h) Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply.

(i) Provisions for collecting and discharging surface drainage and preliminary descriptions of any structures that may be required.

Sec. 24.1-38. Procedure.

The agent or his appointed representative shall discuss the preliminary plat with the subdivider in order to determine whether or not his preliminary plat generally conforms to the requirements of the subdivision ordinance.

The subdivider shall then be advised in writing within fifteen (15) days, which may be by formal letter or by meaningful markings or descriptions on his copy of the preliminary plat, concerning any additional data that may be required, the character and extent of public improvements that will have to be made, and an estimate of the cost of construction or improvements and the amount of the surety bond which will be required as a prerequisite to approval of the final subdivision plat. In determining the cost of required improvements and the amount of the surety bond, the agent may require the subdivider to furnish a bona fide estimate of the cost of improvements to assist the agent in determining the amount of surety bond.

Sec. 24.1-39. Preliminary plat may be submitted as final plat.

The preliminary plat may be submitted as the final plat where approved by the agent and provided no change, erasure or revision shall be made on any preliminary or final plat nor on accompanying data sheets after approval of the agent has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the agent.

Sec. 24.1-40. No guarantee.

Approval by the agent of the preliminary plat does not constitute a guarantee of approval of the final plat.

Sec. 24.1-41. Twelve months' limit.

The subdivider shall have not more than twelve (12) months after receiving official notification concerning the preliminary plat to file with the city a final subdivision plat in accordance with this ordinance. Failure to do so shall make preliminary approval null and void. The agent may, on written request and with good cause shown by the subdivider, grant an extension of this time limit.

Sec. 24.1-42. Final plat.

If no preliminary plat is submitted in accordance with Section 24.1-39, the submission of a final plat shall constitute the official filing of a proposed subdivision. Twenty (20) copies of the final plat shall be submitted to the city for final approval and subsequent recording. Blue or black line prints (surveyor's copies) shall be clearly and legibly drawn at a scale of not more than one hundred (100) feet to the inch on sheets having a maximum size of seventeen (17) inches by twenty-two (22) inches.

The final plat shall include the following information and all information which is required on the preliminary plat shall be provided on the final plat:

- (a) Name of subdivision, city, state, owner, true and/or magnetic north point and scale of drawing and number of sheets. If shown on more than one (1) sheet, matched lines shall clearly indicate where the several sheets join. A space shall be reserved for the signature of the city engineer and the clerk of council.
- (b) Location of proposed subdivision by an insert map at a scale of not less than two (2) inches equal one (1) mile indicating adjoining roads, their names and numbers, counties, subdivisions and other landmarks.
- (c) A boundary survey with an error of closure within the limits of one (1) in five thousand (5,000) related to the magnetic meridian and showing the location of all monuments and their type of material within the boundary of the subdivision. The survey may be related to the U. S. Coast and Geodetic Survey state grid north if the coordinate of two (2) adjacent corners of the subdivision are shown.
- (d) Certificates signed by the surveyor setting forth the source of title of the owners of the land subdivided and the place of record of the last instrument in the chain of title.

(e) A statement to the effect that the subdivision as it appears on this plat is with the free consent and in accordance with the desires of the owners, proprietors and trustees, if any, which shall be signed by the owners, proprietors and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgements to deeds.

(f) When the subdivision consists of land acquired from more than one (1) source of title the outlines of the various tracts shall be indicated by dotted lines and identification of the respective tracts shall be placed on the plat.

(g) The accurate location and dimensions by bearings and distances with all curve data on all lots and street lines, boundaries of all proposed or existing easements and utilities, existing parks, school sites or other public areas, the number and area of all building lots, all existing public and private streets, their names, numbers and widths, water courses and their names, delineation of flood plain districts, names of owners and their property lines within the boundary of the subdivision and the names of owners and their property lines adjoining said boundaries.

(h) All dimensions shall be shown in feet and decimals of a foot to the closest two (2) decimal points, all bearings shall be shown in degrees and minutes to the nearest minute.

(i) The data of all curves along the street frontages shall be shown in detail at the curve or in a curve data table containing the following; delta angle, radius, arc, tangent, chord and chord bearings.

(j) Any restrictions imposed by the subdivider shall be shown on the plat, or on attached sheet(s) in which case it shall be stated on the plat that deed restrictions are on the said attached sheet(s).

(k) Where public water and or sewer systems are to be provided it shall be indicated on the plat and shall reflect whether such facilities will be owned by the City of Lynchburg or privately owned, indicating the name or title of the owner.

(l) A statement as to whether utilities will be placed overhead or underground.

Sec. 24.1-43. Conditions.

The plat shall not be approved until the subdivider has complied with the general requirements and minimum standards of design in accordance with this ordinance and has made satisfactory arrangements of surety bond to cover the cost of necessary improvements to the satisfaction of the city.

Sec. 24.1-44. Approval.

The agent shall not approve the final plat until he has received a written statement from the health department that the subject property is suitable for the proposed development; nor shall he approve the plat when city public water and/or sewer is to be provided until the agent receives in writing that the system has been approved by the City of Lynchburg.

(a) Approval of the final plat shall be written on the face of the plat by the city engineer and clerk of council and all copies shall be retained by the clerk of council until the subdivider is ready to record same. (See also Section 24.1-28(g).) The agent shall notify the subdivider in writing when the plat is approved and the subdivider shall record the plat within six (6) months after final approval. The agent may, on written request of the subdivider, grant an extension of this time, otherwise he shall mark the plat void and return same to the subdivider.

(b) The city council, commission or other agent shall proposed plat within sixty (60) days after it has been submitted for approval by either approving or disapproving such plat in writing, and giving with the latter specific reasons therefore.

Specific reasons for disapproval may be contained in a separate document or may be written on the plat itself, and shall relate in general terms such modifications or corrections as will permit approval of the plat.

If the city council, commission or other agent fails to approve or disapprove the plat within sixty (60) days after it has been officially submitted for approval, the subdivider, after ten (10) days' written notice to the commission or agent, may petition the circuit court of the city or county in which the land involved, or the major part thereof, is located, to decide whether the plat should or should not be approved. The court shall hear the matter and make and enter such order with respect thereto as it deems proper, which may include directing approval of the plat.

If the city council, commission or other agent disapproves a plat and the subdivider contends that such disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the circuit court having jurisdiction of such land and the court shall hear and determine the case as soon as may be.

The time requirements contained in this section shall not apply to the submission of any preliminary subdivision plat.

ARTICLE VIII. EFFECTUAL CLAUSES

Sec. 24.1- 45. Ex ceptions.

Where the subdivider can show that a provision of these standards would cause unnecessary hardship if strictly adhered to, or where, because of topographical or other conditions peculiar to the site, in the opinion of the agent a departure may be made without destroying the intent of such provisions, the agent may authorize an exception. When the agent or subdivider desires, the matter shall be referred to the commission or city council for review. Any exceptions authorized under the provisions of this section shall be stated in writing on the plat, by the agent, commission or city council with the reasoning set forth on which the departure was justified.

Sec. 24.1- 46. Pen al ties.

Any person violating the foregoing provisions of this ordinance shall not be granted a building permit or extended public utilities and shall be subject to a fine of not more than one hundred dollars (\$100.00) for each lot or parcel of land so subdivided or transferred or sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided.

Sec. 24.1- 47. Val id ity.

Should any section, subsection or provision of this subdivision ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not effect the validity or constitutionality of such subdivision ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

Sec. 24.1- 48. Re peal.

Where any ordinance or portion of any ordinance is in conflict with this ordinance, that provision which is more restrictive or imposes higher standards or requirements shall apply.

Sec. 24.1- 49. Amend ments.

This ordinance may be amended in whole or in part. The commission on its own initiative may, or at the request of the city council shall, prepare and recommend amendments to this ordinance. The procedure for such amendment shall be the same as for the preparation and recommendation and approval and adoption of the original ordinance; provided, that no such amendment shall be adopted by the governing body without a reference of the proposed amendment to the commission for recommendation, nor until sixty (60) days after such reference, if no recommendation is made by the commission. Provided, further, that

the provisions of Section 15.1-431 of the Code of Virginia (1950), as amended, regarding advertisement and public hearings have been complied with.

Sec. 24.1- 50. Effective date.

This ordinance was duly considered, following a required public hearing, and was adopted by the City of Lynchburg, Virginia, on November 14, 1978